

REMARKS

Elected Claims 16-20 are pending in the application together with Group I (Claims 1-15), Group III (Claims 21-25), Group IV (Claims 26-29, and 31), and Group V (Claims 26-29 and 31).

It is noted that the Office Action dated June 18, 2001 requiring restriction failed to restrict Claim 30 to one of the five groups. Claim 30 is herein amended for the avoidance of future claim omission and ambiguity, and in an effort to advance prosecution and encompass infringing subject matter. Although Applicants respectfully maintain their traversal to the restriction and the election requirements, Applicants submit that Claim 30 should be a member of Group IV and Group V, respectively drawn to the use of bacterial polypeptides and the use of chimeric polypeptides.

The present Office Action maintains the restriction and election of species requirement. Applicants understand that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims. It is believed that Claims 16-20 are generic to a plurality of species.

Accordingly, it is respectfully submitted that the current election of species is sufficient and in compliance with 35 U.S.C. 121. However, if any issues remain outstanding, the Examiner is respectfully requested to contact the undersigned so the prosecution may be expedited.

Please grant any extensions of time deemed necessary for entry of this communication.

Please charge any deficient fees, including extension of time fees, or credit any overpayment of fees, to Deposit Account 500417.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

A handwritten signature in black ink, reading "Robert L. Price". The signature is written in a cursive style with a large, stylized "R" and "P".

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

30. (Amended) A method according to claim 26[2], wherein said bacterial infection is S.pneumonia, group A *streptococcus (pyogenes)*, group B *streptococcus* (GBS or *agalactiae*), *dysgalactiae*, *uberis*, *nocardia* or *Staphylococcus aureus*.